



**STATE OF TENNESSEE
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NASHVILLE, TN 37243
615-741-2273**

<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission met on August 9, 2023, at 9:00 a.m. CDT at the Tennessee State Library and Archives at 1001 Rep. John Lewis Way N. Nashville, TN 37219. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Associate General Counsel Anna Matlock read the public disclaimer and called the roll. The following Commission members were present: Vice-Chair Geoff Diaz, Commissioner DJ Farris, Commissioner Joan Smith, Commissioner Steve Guinn, Commissioner Jon Moffett, Commissioner Joe Begley, Commissioner Stacie Torbett, and Commissioner Kathy Tucker. Quorum Confirmed. Others present are Assistant Commissioner Alex Martin, Associate General Counsel Anna D. Matlock, Associate General Counsel Kimberly Cooper, Associate General Counsel Aerial Carter, Paralegal Carol McGlynn, Education Director Ross White, and TREC staff member Aaron Smith.

The board's August meeting agenda was submitted for approval.

The motion to approve the August 09, 2023, agenda was made by Commissioner Guinn and seconded by Commissioner Moffett. The motion passed unanimously.

A motion to move the Commission Discussion up on the agenda was made by Commissioner Smith and seconded by Commissioner Tucker. The motion passed unanimously.

The minutes for the June 14, 2023, Commission meeting were submitted for approval.

The motion to approve the June 14, 2023, minutes was made by Commissioner Torbett and seconded by Commissioner Smith. The motion passed unanimously.

EXECUTIVE DIRECTOR SELECTION

Commissioner Farris updated the commission on his participation in the selection of the new Executive Director for the Tennessee Real Estate Commission. Mrs. Denise Baker was presented to the Commission as the selected candidate for the open Executive Director position.

The motion to approve Mrs. Denise Baker as the new Executive Director of the Tennessee Real Estate Commission was made by Commissioner Farris and seconded by Commissioner Moffett. The motion passed unanimously.

The motion to contact Human Resources on the start date and salary was made by Commissioner Begley and seconded by Commissioner Farris. The motion passed unanimously.

INFORMAL APPEARANCE

Alicia Howard appeared before the commission with her Principal Broker, Drew Carey, to receive approval for her Affiliate Broker license.

The motion to approve Alicia Howard was made by Commissioner Torbett and seconded by Commissioner Begley. The motion carried unanimously.

Dwjuan Bradford appeared before the commission with his Principal Broker, LaTonya Martin, to receive approval for his Affiliate Broker license.

The motion to defer Dwjuan Bradford was made by Commissioner Torbett and seconded by Commissioner Smith. The motion carried unanimously.

Samantha Harris appeared before the commission with her Principal Broker, Judy Walters, to receive approval for her Affiliate Broker license.

The motion to approve Samantha Harris was made by Commissioner Farris and seconded by Commissioner Torbett. The motion carried unanimously.

Dexter Goss appeared before the commission with his Principal Broker, Robert Murphy, to receive approval for his Affiliate Broker license.

The motion to approve Dexter Goss was made by Commissioner Torbett and seconded by Commissioner Tucker. The motion carried unanimously.

WAIVER REQUEST

Associate General Counsel Anna Matlock presented Michelle Wright to the commission seeking a medical waiver of the late fees.

The motion to approve Ms. Wright's request was made by Commissioner Farris and seconded by Commissioner Torbett. The motion carried unanimously.

Associate General Counsel Anna Matlock presented Randall Garrett to the commission seeking a medical waiver of the late fees.

The motion to approve Mr. Garrett's request was made by Commissioner Farris and seconded by Commissioner Smith. The motion carried unanimously.

EDUCATION REPORT

Education Director Ross White presented the Education Report to the Commission.

The motion to approve courses A1-A45 was made by Commissioner Farris and seconded by Commissioner Torbett. The motion passed unanimously.

Education Director Ross White presented the Instructor Biography to the Commission.

The motion to approve the instructor's biography was made by Commissioner Farris and seconded by Commissioner Guinn. The motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Assistant Commissioner Alex Martin updated the Commission on the topics below.

Meeting Dates 2024 – The Commission was given the proposed meeting dates to consider for meeting dates January through December except for July a non-meeting

month. The commission will vote to accept the proposed meeting dates at an upcoming meeting.

COMMISSION DISCUSSION:

Commissioner Guinn made the motion to present the Bill Tune Award to former Commissioner Marcia Franks, the motion was seconded by Commissioner Farris. The motion passed unanimously.

CHAIRMAN and VICE-CHAIRMAN:

The Commission voted to elect a new Chairman and Vice-Chairman. This included several rounds of voting. In the first round, Commissioner Guinn made a motion to nominate Geoff Diaz for Chairman, the motion was seconded by Commissioner Smith. Commissioner Begley made the motion to nominate D.J. Farris for Chairman, seconded by Commissioner Tucker. The motion failed 4-4.

Commissioner Begley made a motion for no secret ballot, the motion was seconded by Commissioner Tucker. The motion passed 5-3, Commissioners Torbett, Moffett, and Diaz voting against.

In the second round of voting, Commissioner Guinn made a motion to nominate Geoff Diaz for Chairman, the motion was seconded by Commissioner Moffett. Commissioner Begley made a motion to nominate D.J. Farris for Chairman, seconded by Commissioner Smith. Commissioners Guinn, Smith, Moffett, and Diaz voted for Geoff Diaz. Commissioners Farris, Torbett, Tucker, and Begley voted for D.J. Farris. The motion failed 4-4.

In the third round of voting, Commissioner Farris made a motion to nominate Geoff Diaz for Chairman, seconded by Commissioner Moffett. The motion passed unanimously. Commissioner Smith made a motion to nominate D.J. Farris for Vice-Chairman, seconded by Commissioner Tucker. The motion passed unanimously. Commissioner Geoff Diaz is elected Chairman and Commissioner D.J. Farris is elected Vice-Chairman for 2023-2024.

CONSENT AGENDA

The following cases were presented to the commission via a Consent Agenda. All cases were reviewed by legal counsel and were recommended for either dismissal or disciplinary action.

A motion was made to accept Counsel's recommendation for complaints 1-64 except for the following complaints, which were pulled for further discussion: **2023011791, 2023012141, 2023008231, 2023016291, 2023019631, 2023019271, 2023019551, 2023013921, 2023016701, 2023018471, 2023020311, 2023016121, 2023028951.**

The motion was made by Commissioner Smith and seconded by Commissioner Moffett. The motion carried unanimously.

After further discussion by the Commission on complaint 2023011791, Commissioner Farris motioned **to accept the Counsel's recommendation.** Commissioner Torbett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023012141, Commissioner Smith motioned **to close and flag the complaint.** Commissioner Moffett seconded the motion. The motion carried 6-2 with Commissioners Tucker, and Begley voting no.

After further discussion by the Commission on complaint 2023008231, Commissioner Torbett motioned **to accept the Counsel's recommendation,** and Commissioner Farris seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint **2023016291,** Commissioner Farris motioned **to accept the Counsel's recommendation,** and Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023019631, Commissioner Farris motioned **to issue a Letter of Warning as to failure to exercise reasonable skill and care.** Commissioner Begley seconded the motion. The motion was carried 5-3 with Commissioners Smith, Diaz, and Torbett voting no.

After further discussion by the Commission on complaint 2023019271, Commissioner Guinn motioned **to accept the counsel's recommendation.** Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023019551, Commissioner Tucker motioned **to accept the Counsel's recommendation,** and Commissioner Smith seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023013921, Commissioner Farris motioned **to accept the Counsel's recommendation**, and Commissioner Torbett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023016701, Commissioner Smith motioned **to assess a Five Hundred Dollar (\$500.00) civil penalty and require Respondent to complete the CORE education course within one hundred eighty (180) days of execution of the consent order to be completed above and beyond the required continuing education requirements**, and Commissioner Tucker seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023018471, Commissioner Begley motioned **to accept the counsel's recommendation**. Commissioner Farris seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023019551, Commissioner Farris motioned **to assess a One Thousand Dollar (\$1,000.00) civil penalty**, and Commissioner Moffett seconded the motion. The motion carried 7-1 with Commissioner Guinn voting no.

After further discussion by the Commission on complaint 2023016121, Commissioner Smith motioned **to accept the Counsel's recommendation**, and Commissioner Torbett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023028951, Commissioner Torbett motioned **to assess a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-313(a)(2)**, and Commissioner Tucker seconded the motion. The motion carried unanimously.

Kimberly Cooper
New Complaints:

1. **2023004931**
Opened: 2/21/2023
First Licensed: 9/29/2020
Expires: 9/28/2024
Type of License: Affiliate Broker
History: None

Complainant was a home buyer; Respondent is a licensee. Complainant stated there was not a buyer agreement in place designating Respondent as Complainant's agent. Complainant asked Respondent to show them two properties and that Respondent told them they were above Complainant's financing approval amounts, and that they should make an offer "sight-unseen". Complainant was unhappy with Respondent's apparent lack of enthusiasm and so asked another realtor to show them the properties, and Complainant made an offer on one of the properties through that agent. Complainant alleged that once the offer was made, Respondent contacted the agent and made disparaging remarks about the Complainant and embarrassed them, ultimately leading to the offer being rejected.

Respondent responded to the complaint by noting that there was a Confirmation of Agency Status document provided by the Complainant signed by Complainant two days before the Complainant made an offer on the home. Respondent had worked with the Complainant on two prior occasions and thought they had a good working relationship. Respondent stated that when they learned from another agent that Complainant was working with that agent and had made an offer with that agent, Respondent contacted that agent and let them know they would be stepping aside. Respondent also attempted to contact Complainant to confirm that they would no longer be involved in the process but that Complainant refused their attempts to talk. Respondent denies disparaging Complainant or lessening Complainant's chances at purchasing the property and noted that the property sold for a much higher price than the amount Respondent and Complainant discussed offering for the property. Based on the information provided, Counsel finds no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

2. **2023009171**
Opened: 3/20/2023
First Licensed: 10/4/2021
Expires: 10/3/2023
Type of License: Affiliate Broker
History: None

Complainants were the seller of a property; Respondent was Seller's agent and was hired in June 2022. Complainant was selling adjoining lots on separate deeds and

planned to sell their home on an adjoining lot in November 2022. The sale of the two original lots closed in July 2022. Complainant alleges they told Respondent repeatedly prior to the sale that they were concerned about possible septic line encroachment and asked Respondent's guidance on how to protect themselves in the event the lines did encroach. Complainant alleges that instead of protecting their interests, Respondent instead acted in the interest of the buyer who was also a friend of Respondent. Complainant alleges that Respondent never advised Complainant to obtain a septic line inspection; did not advise that Complainant request a septic line waiver and when pressed to obtain one prior to closing lied and said that it had already been done; and did not disclose their personal relationship with the buyer. Complainant also alleges that Respondent forged their signatures to a notification form. In November 2022, Buyer had a land survey done and discovered that Complainant's home septic lines did encroach on the lots purchased. Complainant alleges that Respondent knew that the lines encroached and advised Buyer to wait until after the sale closed to conduct a land survey. Complainants state that Respondent acted with malice and did not act with due care towards Complainants and as a result they are now unable to sell their home without buying the land back, something the Buyer has refused to do.

Respondent advised that after consultation with their principal broker a notification form regarding the possibility that septic lines encroached on the land was provided to Buyer and a copy was attached to Respondent's response. Respondent stated that they did advise Complainants to contact a septic company to find the precise layout of the septic lines, which they declined, nor did they do a survey to determine exact property lines. Respondent denied that they had any personal relationship with the Buyer, had no personal communication with the Buyer in any form, and only communicated with the Buyer agent. In November when the land survey was done and the septic lines were confirmed to be on Buyer's property, Respondent advised the Complainant that the contract could not be renegotiated and advised Complainants to offer to buy back that portion of the lot. Respondent alleges that communication between Complainant and Respondent deteriorated due to Complainant's actions and that all communication is now through the parties' attorneys.

Complainant responded to Respondent's statement by again alleging that Respondent intentionally lied and put Complainant and their ability to sell their home in a "legally compromised position by not doing (their) job." When asked for additional information or documentation, Complainant stated that they were consulting with their own legal counsel and that they are moving forward with all

options including a possible criminal referral due to the alleged forgery of the notification form.

Recommendation: Litigation monitoring.

Commission Decision: The Commission accepted counsel's recommendation.

- 3. 2023011691**
Opened: 3/27/2023
First Licensed: 2/6/1995
Expires: 3/1/2025
Type of License: Principal Broker
History: None

Complainant is a co-owner of a home; Respondent is a licensee.

Complainant and spouse settled a contentious divorce on Feb 28th that required the sale of the marital home. The parties agreed that each could choose their own co-listing agent with agreed upon stipulations regarding the length of the listing, the amount due each party in the event the home sells, and the option of Spouse buying out Complainant's interest in the home. Respondent is Spouse's agent. Complainant alleges that Respondent is friends with Spouse, that Spouse is better off if the house does not sell, and that Respondent has therefore worked to sabotage the sale of the home. Complainant alleges that Respondent has delayed the listing of the home, would not provide Complainant's agent with the combination of the lockbox, and that Respondent on at least one occasion left personal documents regarding the Complainant's divorce proceedings out for public inspection during an open house.

Respondent denied the allegations. Regarding the lockbox issue, all showings of the home have to be approved by Spouse, and Respondent noted that Spouse has only removed the lockbox from the door when Spouse is home alone. Respondent provided copies of emails between the co-listed agents demonstrating that the home was listed within a week of the settlement agreement, and there was discussion between the agents and the parties' attorneys to clarify what was expected of the arrangement and the responsibilities of all involved. Many if not all of Complainant's frustrations seem to be founded in the contested sale of the home, a matter more properly addressed by the parties' attorneys.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 4. 2023011791**
Opened: 3/27/2023
First Licensed: 4/26/2017
Expires: 4/25/2025
Type of License: Affiliate Broker
History: None

Complainant is a purchaser of a home sold by Respondent/licensee/owner. Complainant alleges that Respondent as the listing agent and seller did not provide any information regarding the homeowners' association to the title company, resulting in Complainant learning after the sale that Respondent was in arrears on the dues and a lien on the property was imminent.

Respondent provided a copy of the Property Condition Report, signed by the Complainant, which stated the name, mailing address and phone number for the HOA property management company. Respondent denied knowing that the dues were delinquent, and when they learned from their principal broker about the issue attempted to get the correct balance from the HOA only to be told that "they weren't getting in the middle of" the dispute. Complainant has since contacted the Commission asking for the complaint to be withdrawn. Based on the information provided, Counsel finds no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

- 5. 2023011881**
Opened: 3/27/2023
First Licensed: 7/10/2019
Expires: 7/09/2025
Type of License: Affiliate Broker
History: None

Complainant is a licensee; Respondent is a licensee. Complainant alleges that Respondent had an advertisement for a property for sale on Facebook that is “not placed in accordance with advertising rules.” The advertisement accompanying the complaint appears to be from Facebook Marketplace with Respondent’s name listed as the “seller”. No additional information regarding the seller was provided. Respondent acknowledged the error, apologized, and corrected the ad immediately upon notification. Counsel recommends a civil penalty of \$500.

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Commission Decision: The Commission accepted counsel’s recommendation.

- 6. **2023012141**
Opened: 3/27/2023
Unlicensed
History: None

Complainant is the adult child of property owner, Respondent is unlicensed.

Complainant alleged that Respondent approached Complainant’s parent, who they say is over 65 and in ill-health, and convinced them to sell a parcel of real estate to the Respondent. Complainant alleges that Parent did not know what they were signing and was not provided a copy of the sales contract.

Respondent confirmed they approached Parent and made a cash offer to purchase the property in January. Complainant states their intentions to purchase were made clear and that Parent negotiated a price for the property after an on-site inspection by Respondent. Parent attended the closing and was “happy with the outcome” per the Respondent. Complainant disputes this description, and still feels that Respondent took advantage of Parent. Based on the information provided, Counsel can find no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission voted to close and flag the complaint.

- 7. **2023012371**
Opened: 3/27/2023

First Licensed: 4/1/2010
Expires: 3/31/2024
Type of License: Affiliate Broker
History: None

Complainant is a first-time home buyer; Respondent is a licensee.

Complainant alleges that Respondent did not provide reasonable skill and care in Complainant's search for a home, and that Respondent was deceitful about the fees and cost of an appraisal to pressure Complainant into signing a contract for a home. Additionally, Complainant alleges that Respondent and Complainant's lender worked together to deny Complainant enough time to review her loan documents and withheld information regarding the total amount of funds Complainant would need to bring to closing. Complainant stated they felt "that (they) had been targeted and teamed up against and ultimately treated in an unfair/discriminatory manner." Finally, Complainant alleges that because Respondent did not act in Complainant's interest, Complainant was not able to get their earnest money back after the sale fell through of their chosen home in February 2023, and that "It was frustrating to feel targeted and discriminated against for being young and not having home buying experience. It was frustrating to feel that I was not represented by anyone, except myself."

Respondent denied the allegations and stated that they began to work with the Complainant in March 2022 to find a home. Copies of text messages between Respondent and Complainant were provided and document that communication was ongoing, and that Respondent showed multiple properties to Complainant over the course of almost a year. Respondent explained that the change in funds needed for closing was a result of the verification of employment for Complainant showing Complainant worked 35 hours a week, not full time as Complainant had stated, and that Complainant's debt to income ratio was higher than expected. Respondent stated they answered all of Complainant's questions as best as they could but agreed that communication was difficult at times due to Complainant's work schedule. Respondent denied working with the lender to hamper Complainant's purchase and instead was trying to work with the Complainant and lender so that Complainant would not be in breach of contract.

While the Complainant's frustration is clear, based off the information provided Counsel does not believe Respondent violated their duty of care to Complainant and recommend this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 8. 2023012611**
Opened: 3/27/2023
First Licensed: 10/27/2020
Expires: 10/26/2024
Type of License: Affiliate Broker
History: None

Complainant is a home buyer; Respondent is a licensee and was Complainant's agent.

Complainant purchased a home in October 2021, and states that Respondent coordinated a home inspection of the property and chose the home inspector. The home caught fire in January 2023 due to "an undisclosed space heater built into the wall and was covered by paneling." Complainant stated that other major repairs to the home were necessary in December 2021 and July 2022. Complainant appears to be alleging that Respondent and/or the home inspector should have known of these defects.

Respondent denied any wrongdoing and provided copies of the relevant Inspection Report, Purchase and Sale Agreement and Repair/Replacement Amendment to the Sale Agreement. All documents are signed by the Complainant, and Complainant chose to waive a home protection plan and acknowledged reading the Disclaimer regarding any liability of the licensee for undetected and unknown defects prior to purchase.

Based on the information provided, Counsel can find no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 9. 2023008231**
Opened: 4/3/2023

First Licensed: 5/13/2016
Expires: 5/12/2022 (Expired, Uninsured)
Type of License: Affiliate Broker
History: None

Complainant is a licensee at Respondent's former firm. Respondent's license expired in May 2022, but Respondent continued to portray themselves as an agent with the firm through Facebook. Complainant provided copies of two advertisements from Respondent's business Facebook page where Respondent states they will find buyers their "dream home" as well as help people buy and sell homes. Respondent's business Facebook page was still active when this complaint was reviewed by Legal and Respondent is still posting real-estate related content and referring to themselves as an agent but the business contact information present in the complaint had been removed. The Respondent's former principal broker has asked Respondent not to advertise or imply that they are still working for the firm or that they are an agent, but Respondent has ignored those requests. Respondent did not respond to the complaint, and certified mail sent to Respondent has been returned unclaimed.

Recommendation: \$1,000 civil penalty for a violation of Tenn. Code Ann. § 62-13-301, which states, "it is unlawful for any person to directly or indirectly engage in or advertise or claim to be engaging in the business of or acting in the capacity of a real estate broker or affiliate broker without first obtaining a license."

Commission Decision: The Commission voted to accept counsel's recommendation.

10. 2023014761
Opened: 4/3/2023
First Licensed: 5/9/2006
Expires: 7/21/2023 (Expired – Grace, Active)
Type of License: Principal Broker
History: None

Complainant alleged that while inquiring about a commercial property listed by Respondent, Respondent made derogatory comments about Complainant's race and used a vile slur against Complainant and then hung up on Complainant. Complainant states that Respondent's actions were "discriminatory and unprofessional."

Respondent strongly denied the allegations but agreed that they had spoken with the Complainant by phone after Complainant called to ask about a commercial property. Respondent states that Complainant asked about the rate for rent, then asked if the building was for sale. When told the sale price, Respondent alleges Complainant became belligerent and told Respondent they would never get that price. Complainant then lectured Respondent regarding who they believed owned the building and what they had paid for it. Complainant was incorrect on both items. Respondent states that Complainant was rude, condescending, and misogynistic, and expressed their opinion that Complainant should not call again and tell Respondent how to run their business. After hanging up, Complainant texted Respondent a screenshot of this complaint.

Based on the information provided, Counsel doesn't believe they would be able to prove a violation of the TREC rules or *Broker Act*, and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

11. 2023016001
Opened: 4/3/2023
First Licensed: 6/2/2004
Expires: 7/20/2025
Type of License: Affiliate Broker
History: None

This complaint is related to REC # 2023015991. Complainant is a licensee; Respondent is a licensee. Complainant alleges that Respondent was working with a just-terminated broker, using a stolen client list, and was contacting Complainant's active clients. Complainant alleges that licensee and the terminated employee were fraudulently stating that employee and Respondent had formed a new firm and were "merging" with the Complainant's firm and using Complainant's firm name, reputation, and website domain name to obtain clients. Respondent denied to Complainant that they knew that employee had been terminated and asked Complainant to contact Respondent's principal broker.

Respondent responded to the complaint and acknowledged that they were provided a potential client list by their principal broker ("PB") and began to make calls. Respondent was told by their PB that the list was provided by a former employee

(the terminated employee of the other firm) and that the former employee was returning to their firm. When Respondent was told by one of the potential customers that they were happy with Complainant's service, Respondent states that Respondent told them if that changed to let them know and ended the call. Respondent confirmed that when contacted by Complainant that Respondent told them to contact her PB and that they didn't want to get "in the middle of any drama". Respondent's PB also provided a response and stated that they were unaware of any issues between Complainant and the terminated employee before that employee rejoined PB's firm. PB states that Complainant never contacted them to discuss the issue but when Respondent called and told them about Complainant's concerns PB immediately directed Respondent to cease making any calls even though as far as PB knew they were leads not clients and no valid agency agreement existed. PB asked that the complaint be dismissed.

Complainant submitted a rebuttal and stated that the "leads that were in my system were taken without permission and are now being distributed to another Real Estate office." The complaint essentially appears to be one alleging various ethical issues and not a violation of TREC rules or statutes.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

12. 2023015991
Opened: 4/17/2023
First Licensed: 4/23/1990
Expires: 7/8/2024
Type of License: Principal Broker
History: None

This complaint is related to REC # 2023016001. Allegations by the Complainant are the same as above. Respondent is the terminated affiliate broker of Complainant. Allegations by the Complainant are the same as above. Respondent stated that the domain name they allegedly "stole" was owned by Respondent, had been since 2006, and provided documentation of their ownership. Respondent stated that the "client list" Complainant referred to was a list of web leads, from Respondent's website and generated by Respondent; no agency relationship existed; and that "Nothing has been stolen from any person in the system. They are customers, not clients."

Respondent stated that Complainant has made false and malicious representation of facts to the Commission and has damaged Respondent's reputation.

As opined above, the complaint essentially appears to be one alleging various ethical issues between former business partners and not a violation of TREC rules or statutes.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2023016381

Opened: 4/10/2023

First Licensed: 8/7/2012

Expires: 8/6/2024

Type of License: Principal Broker

History: None

Complainant was Seller of a home; Respondent was buyer's agent. Complainant alleges that the Purchase and Sale Agreement was drafted so that the sale was "As-Is". Despite that stipulation, Respondent demanded that Complainant remove a fallen tree in the yard at Complainant's expense. When Complainant objected, Complainant alleges that Respondent instead tried to "bully" Complainant's agent into removing the tree with the help of agent's spouse and children. Complainant alleges that Respondent "enticed" Complainant's agent to act outside the scope of their licensure in "side dealings" to satisfy the buyers' wishes that were not part of the signed contract.

Respondent denied acting inappropriately. Respondent stated that after the contract was signed but before the closing a tree fell in the yard and Buyers did not believe they should have to pay for removal. In discussion with Complainant's agent, it became clear that Complainant would not agree to pay for removal and that Complainant's agent finally agreed that they would coordinate removal of the tree after closing. Respondent stated that after closing they received a call from Complainant's agent again confirming they would handle coordinating removal of the tree, and that was the last communication with the agent. Complainant submitted a rebuttal, providing copies of text messages between Complainant and their agent wherein they discussed the removal of the tree and who should be responsible for

the cost. Complainant again points out that the contract was “As-Is”, a fact that was not disputed by the Respondent.

Based on the information provided there does not appear to be a violation of any Rule or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

14. **2023010561**
Opened: 4/17/2023
First Licensed: 4/6/2021
Expires: 4/5/2023 (Expired, Active)
Type of License: Affiliate Broker
History: None

Complainant is a principal broker; Respondent is a former employee and licensee. Complainant states that Respondent was released at the end of January for not following instructions and operating outside of firm policies and was not affiliated with another firm. In March of 2023 Respondent posted on their Facebook page that they were still an agent and planned on operating “by personal referral only”.

Respondent’s license expired on April 5, 2023, and notice of the complaint was received by Respondent on April 15, 2023. Respondent did not respond to the complaint and appears to have moved out of state.

Recommendation: \$1,000 civil penalty for a violation of Tenn. Code Ann. § 62-13-301, which states, “it is unlawful for any person to directly or indirectly engage in or advertise or claim to be engaging in the business of or acting in the capacity of a real estate broker or affiliate broker without first obtaining a license.”

Commission Decision: The Commission accepted counsel’s recommendation.

15. **2023017571**
Opened: 4/17/2023
First Licensed: 9/15/2022

Expires: 9/14/2024
Type of License: Affiliate Broker
History: None

Complainant is a licensee; Respondent is a recently licensed affiliate broker. Complainant alleged that one of their clients was contacted by Respondent soliciting offers for the assignment of allegedly active purchase and sale agreements. The solicitation did not list the firm name or number of the firm of Respondent or identify the respondent as a licensee. The solicitation stated it was from a “real estate investor” and listed Respondent’s personal email and mobile phone number.

Respondent confirmed they sent the solicitation to buyers of at least two homes in the county in the last 12 months. Respondent stated that “the letter’s intent in (their) opinion had nothing to do with (their) real estate license; thus, that’s why it was a very casual letter.” A copy of the letter was provided by both Complainant and Respondent and does appear to be in violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(b) which requires that all advertising list the firm name and telephone number as listed on file with the Commission.

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Commission Decision: The Commission accepted counsel’s recommendation.

16. 2023016291
Opened: 4/17/2023
First Licensed: 4/9/2012
Expires: 4/8/2024
Type of License: Real Estate Firm
History: 2019 Letter of Warning

This complaint was referred to the Commission by the Division of Consumer Affairs of the Office of the Tennessee Attorney General. Complainant is a home buyer, Respondent is licensee. Complainant alleges that Respondent committed a “bait on switch” on potential buyers by promising certain amenities and lot options and then, once the purchase contract is signed, backing out of those promises. Complainant appears to be alleging that the Respondent is making unsubstantiated selling claims or misleading statements in violation of Tenn. Comp. R. & Regs. 1260-02-.12(7)(a).

Respondent's attorney ("RA") replied on behalf of Respondent. RA denied the allegations and denied that they had engaged in any improper conduct with Complainant's attempted home purchase. When the lot chosen by Complainant was determined that it would not fit Complainant's desired home, Complainant's earnest money was returned, and the parties executed a Mutual Release Agreement. While Complainant's frustration with the experience is understandable, Counsel doesn't believe that Respondent's actions rise to the level of a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

17. 2023018001
Opened: 4/26/2023
Unlicensed
History: None

Complainant alleges that Respondent landlord is operating as an unlicensed broker, has illegally amended the terms of Complainant's lease and when Complainant refused to agree to the new terms is now unfairly evicting Complainant. Complainant states that the Respondent is managing rental properties owned by third parties, including signing leases, showing properties, and collecting rent.

Respondent's attorney ("RA") answered on behalf of Respondent. RA denies that Complainant is being evicted and was instead notified that the lease would not be renewed when it expires in October. RA also explained that Respondent is the owner of all rental properties in its portfolio, including the one that Complainant occupies, and that the employee specifically mentioned by Complainant in their complaint does not negotiate rent but instead collects rent on behalf of Respondent and communicates directly with tenants on behalf of their employer. Respondent and their employee appear to meet the exemptions of T.C.A § 62-13-104(a)(1)(A) and T.C.A § 62-13-104(a)(1)(E) and they are not in violation of the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

18. 2023013971
Opened: 5/1/2023
Unlicensed:
History: None

This is an anonymous complaint. Complainant alleged that Respondent is acting as a property manager of rental properties while unlicensed and stated that Respondent managed Complainant's rental properties from 2018 through 2022. Mail sent to the Respondent at the residential address submitted by the Complainant was returned. An internet search of the Respondent's name did not return anyone by that name offering property management services in the area. There is insufficient information to move forward currently.

Recommendation: Close and flag.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2023018651
Opened: 5/1/2023
First Licensed: 12/19/2019
Expires: 12/18/2023
Type of License: Affiliate Broker
History: None

Unlicensed Complainant alleged that they worked for Respondent/Licensee to facilitate the sale of commercial property and were now being denied their "full commission" by Respondent. Complainant requested assistance from the Commission in "verifying" the commission received by Respondent on a particular transaction so that the proper amount owed to Complainant would be clear or in the alternative so that legal action could be filed.

Respondent and Respondent's Principal Broker responded to the complaint and denied all allegations of employing an unlicensed agent to broker commercial properties. Respondent confirmed they and Complainant worked together as potential investors in another state but stated that all transactions in Tennessee were limited and that Complainant did not act in an unlicensed capacity. After reviewing the documentation provided by both sides, this matter appears to be a dispute over

payment terms between an employer and employee, and outside the jurisdiction of the Commission.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

20. 2023019631

Opened: 5/1/2023

First Licensed: 5/13/2022

Expires: 5/12/2024

Type of License: Affiliate Broker

History: None

Complainant and Respondent are both licensees. Complainant alleged that Respondent used pictures from a previous listing of Complainant's to advertise the same property in a new listing, only changing the order of the pictures. Respondent and Respondent's Principal Broker both responded to the Complainant by apologizing for the error and stated that the listing had been updated with new pictures. Respondent appears to be in violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(e) which states that "No licensee shall advertise property listed by another without written authorization from the listing agent or listing broker."

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Commission Decision: The Commission voted to issue a Letter of Warning as to failure to exercise reasonable skill and care.

21. 2023020111

Opened: 5/1/2023

First Licensed: 3/3/2008

Expires: 4/4/2025

Type of License: Real Estate Broker

History: None

Complainant is a buyer; Respondent is a listing agent for a property Complainant wanted to purchase. Complainant alleges that when they conveyed an offer on the property directly to Respondent, Respondent refused to present the offer to Seller stating that it was "a low-ball offer". Complainant alleges that they contacted another

agent to present the offer to Respondent, who again stated that they would not present the offer to Seller. Complainant stated they were advised that Seller was “struggling physically and mentally” and that Respondent would not “confuse” Seller with the low offer.

Respondent confirmed they were the listing agent for the property, and confirmed they received a verbal and then written offer on the property from Complainant. Respondent states that Seller is a family member, was selling the property due to illness, and had made clear not to bring Seller any offers below a certain amount on the property. Respondent also stated that if asked, Seller gave Respondent permission to disclose the reasons for the sale to prospective purchasers and agents, but denied Seller was “confused”. Respondent said that Seller had become “agitated” when offers were presented contrary to their instructions and strongly directed Respondent not to “waste their time”. The offer in question was half the amount of the list price and far below what Seller had already told Respondent stated would be acceptable. Respondent stated that they were following all legal instructions of the client. Based on the information provided, there is no violation of the Commission Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

22. 2023016171

Opened: 5/8/2023

First Licensed: 10/21/2019

Expires: 10/20/2023

Type of License: Principal Broker

History: 2022 Consent Order for failure to supervise an affiliate’s advertising

Complainant is a licensee; Respondent is a licensee. Complainant alleges that Respondent is advertising that their firm, which recently acquired another firm, is falsely advertising that their firm has twenty-eight years of experience instead of the twenty-four years Complainant was able to verify. Complainant alleges Respondent’s advertising is misleading and a violation of the advertising rules.

Respondent provided a timeline of their firm’s history including their purchase in 2020 of a firm that had been recognized for their twenty-five years of service, and

proof was provided of that recognition by their parent company. Respondent stated their advertising was accurate and based on the information provided, Counsel finds no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

23. 2023016451

Opened: 5/8/2023

First Licensed: 9/3/2010

Expires: 9/2/2024

Type of License: Affiliate Broker

History: None

Complainant was the parent of a prospective buyer; Respondent was the listing agent of the property. Complainant alleges that the listing was inaccurate as to the number of bathrooms and bedrooms in the home, the non-functional fireplace, and that the “septic tank had no drain field and no tank that could be found during the septic inspection”. The county clerk could not provide a record of a septic permit for the home, and that none of these items were disclosed by the seller or the listing agent. Complainant alleges that Respondent was uncooperative during the contract negotiations and inspection period and that believes they are trying to hide the condition of the property.

Respondent's attorney answered on behalf of Respondent. Respondent stated that the septic disclosure was attached to the property listing and should have been known by the Buyer before any offer was made. Respondent also provided copies of texts between Respondent and buyer's agent wherein seller had a “septic person” come out to the property who located and drained both fully-functional septic tanks. Respondent also noted that the sellers had never lived on the property and would therefore be exempt from a property disclosure, information that was made available to all prospective purchasers. The property was acquired by the sellers at a tax auction, and the sellers then worked to find the previous owners “who signed off on everything so the property has a clear title and can be sold just like any other property so there were no ‘issues’ to disclose”. As for the allegation that Respondent was uncooperative, Respondent notes that the Complainant was not a party to the attempted purchase of the home and that the text messages provided demonstrate Respondent's and seller's attempts to salvage the sale by making some repairs to the

property when buyers were unhappy with the home inspection. Buyers were refunded their earnest money, and Respondent was unaware of any issues until they received this complaint.

Based on the information provided, Counsel can find no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

24. 2023019201
Opened: 5/8/2023
First Licensed: 9/29/2009
Expires: 9/28/2023
Type of License: Affiliate Broker
History: None

Complainant and Respondent are licensees. Complainant alleges that Respondent has been offering cash back incentives in exchange for using their services for the last three years. Complainant did not expand on their allegations but states that “these cash backs can be easily tracked from company bank accounts and financial audits” and asked that the Commission investigate the matter.

Respondent's attorney answered on behalf of Respondent. Respondent stated that since there are no details provided in Complainant's statement, they are unsure as to what specifically they should respond to other than to categorically deny that they have offered “cash backs” to prospective clients. Counsel agrees that there is insufficient evidence of any violation of the Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

25. 2023019271
Opened: 5/8/2023
First Licensed: 11/7/2016
Expires: 11/6/2024

Type of License: Principal Broker
History: 2022 Letter of Warning

Complainant and Respondent are both licensees. Complainant alleges that their firm had a buyer representation agreement with a client that was in effect from November 2022 until May 13, 2023. On April 10, 2023, the affiliate broker working with the client received a message that the client wanted a copy of the buyer representation agreement, then stated they wanted to cancel. Client declined to provide a reason for the cancellation. Client was provided Complainant's firm's cancellation form. Complainant tried to determine the reason for the cancellation and learned that the client had listed their own home with Respondent. After speaking with the client, Complainant then received a text of their cancellation form from client that was also signed by Respondent. Text messages between Complainant and Respondent show that when confronted about their signature being on client's cancellation form, Respondent stated that they did what they thought was right, and questioned why Complainant would not release client and that the buyer agreement expires in "less than thirty days anyway". Complainant alleges that Respondent coached client to break the buyer representation agreement in violation of T.C.A § 62-13-604: "Termination or amendment of existing agency contract; unlawful acts".

Respondent stated that the client contracted with Respondent to sell their home, and stated they did not wish to work with Complainant anymore. Respondent did not address or explain the fact that their signature does appear to be on the cancellation form that client submitted to the Complainant. Respondent does appear to be in violation of T.C.A § 62-13-604 which states: "It is unlawful for a real estate licensee, a relocation firm or a firm with a corporate relocation policy or benefits, or anyone on behalf of any such licensee or firm, to counsel a client of another real estate licensee **on how to terminate or amend an existing agency contract.** Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this part if the communication does not involve advice or encouragement on how to terminate or amend an existing agency contract."

Recommendation: One Thousand Dollar (\$1,000) Civil Penalty.

Commission Decision: The Commission voted to accept counsel's recommendation.

26. **2023019291**
Opened: 5/8/2023

First Licensed: 7/12/2012
Expires: 1/10/2024
Type of License: Principal Broker
History: None

Complainant is a licensee; Respondent is a licensee. Complainant alleges that Respondent had advertised properties for sale on Facebook that are in violation of advertising rules. Attached to complaint was an advertisement that appears to be from Facebook Marketplace of properties for sale with Respondent's name listed as the "seller". No additional information regarding the seller was provided. The ad does appear to be in violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(b) which requires that all advertising list the firm name and telephone number as listed on file with the Commission.

Respondent replied by agreeing that the advertisement did not have the Respondent's firm name listed, and that they have gone back and added the firm name, license and firm license number and phone number to the ad. Respondent stated that when they placed the ad, that information was visible and was unsure how or why the final advertisement did not have that information. Respondent apologized for the error.

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

27. 2023019301
Opened: 5/8/2023
First Licensed: 8/18/2016
Expires: 8/17/2024
Type of License: Affiliate Broker
History: None

Complainant is a real estate abstractor who sold a home to Buyer in September 2022. Complainant and Buyer agreed in writing to a Right of First Refusal should Buyer sell the home within three years of the transaction. In March 2023 Complainant states they were contacted by Respondent on behalf of Buyer, and Respondent advised Complainant that Buyer would be putting the home on the market within the next week and stated the asking price. Respondent advised that the appraisal supporting that price would be sent to Complainant by certified mail. Complainant

would then have three days to decide if they wished to purchase the home at that price. Complainant alleges that Respondent did not obtain an independent appraisal and that the price stated was “fraud” in that it did not use proper comps for valuation; no improvements were done to the home; and did not take into account the lot of the home was much less desirable than those used in the appraisal. Complainant did not provide a copy of the Right of First Refusal document or any other documentation.

Respondent stated that they were the Buyer’s agent when Complainant sold the home to Buyer in 2022 and provided a copy of the Purchase and Sale Agreement as well as a Temporary Occupancy Agreement for Buyer Prior to Closing Amendment signed by all parties. The Right of First Refusal agreement is included in the “Additional Terms” and states: “Buyer (sic) wants 1st right of refusal on condo at appraised value within 3 years if sold.” Respondent stated that they are not now the listing agent for the subject property and had no part in hiring the certified appraiser to establish the purchase price.

Complainant submitted a rebuttal stating that Respondent and Buyer were “bullying” Complainant into waiving their right of first refusal by only allowing three days to respond and by not allowing Complainant to inspect the property. Complainant also stated they were not sure why Buyer was using a realtor “since we both had knowledge of the (property) and we could discuss price, updates, etc. and then we would be ready to go ahead or not.”

Based on the information provided, Counsel does not believe they could prove a violation of the rules or statutes in a contested case hearing and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

28. 2023019551
Opened: 5/15/2023
First Licensed: 12/14/2020
Expires: 12/13/2024
Type of License: Affiliate Broker (Retired)
History: None

Complainant and Respondent are both licensees. Respondent formerly worked for Complainant's firm. Complainant alleges that Respondent is engaging in a pattern of harassment via social media and that Respondent is telling former clients lies about Complainant's business in order to hurt their company and their standing in the community. Complainant stated they have already had to work with the Better Business Bureau to remove an inaccurate report that caused damage to the rating. Complainant provided copies of two of Respondent's comments under business related social media posts by Complainant, unrelated to Respondent, wherein Respondent wrote "Renter beware...She's not ethical" and "I thought your thieving a\$\$ would be in jail by now."

Respondent stated that the complaint made by a former client to the Better Business Bureau was not at Respondent's suggestion but that they believed it to be accurate. Respondent agreed the comments left on Complainant's social media page were made by Respondent and that they "still stand by decision to make those comments". Respondent stated that it was "not harassing or bullying in nature...People needed to be aware of (Complainant's) business practices." Respondent conceded however that they will no longer use social media in this fashion.

Respondent's admitted act appears to be in violation of Tenn. Comp. Rules & Regs. 1260-02-.12(7) which states: "Guarantees, Claims, and offers. (a) Unsubstantiated selling claims and misleading statements or inferences are strictly prohibited."

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

29. 2023020861

Opened: 5/15/2023

First Licensed: 12/16/2016

Expires: 12/15/2024

Type of License: Affiliate Broker

History: 2020 Consent Order for Advertising Violation; 2022 Consent Order for Advertising Violation and Failure to Respond to a Complaint

This complaint was a referral from another state's office of licensure. Complainant, a licensee in that state, alleged that Respondent, a TREC licensee, was using Complainant's DRE number and NMLS number but their own phone number and email address to register with a real estate marketing website. Complainant wanted

to be sure that the licensing agency in both states was aware in case of fraudulent activity.

Respondent and Respondent's principal broker submitted responses. Principal broker contacted the marketing company immediately upon notification of the issue, and it was determined by the marketing company that the Complainant is a loan officer whose NMLS number is the same as Respondent's TREC license number. When Complainant attempted to register with the company and used his "number" the information that was retrieved belonged to Respondent, who had properly entered his license information into the system. The marketing company did submit documentation verifying this as well as notifying the Complainant regarding the issue and how to register with their system if they still wanted to do so. According to the company, the Complainant did not respond to their communication.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

30. 2023021031
Opened: 5/15/2023
First Licensed: 3/19/2019
Expires: 3/18/2025
Type of License: Real Estate Firm
History: None

Complainant entered into a lease agreement for a property owned and managed by Respondent firm. Complainant's occupancy was to begin on May 25th. Complainant paid a deposit plus holding fee and application fee on April 25th. Later that same day Complainant was advised that the current tenant would not vacate the premises in that timeframe. Complainant requested the refund of all monies already paid, and a refund of the holding fee and application fee was delivered on April 27th. On April 29th, Complainant had confirmation from Respondent that the refund for the deposit would be paid but at the time of the filing of the complaint on that same day, Complainant had not received their funds.

Respondent responded to the complaint by denying they withheld funds, and produced documentation that Complainant was notified they would be refunded within 1 to 3 business days and did receive a check for the deposit amount on the

same day the complaint was filed. That check cleared two days later. There is insufficient evidence of any violation of the Rules or the Broker Act by Respondent.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

31. 2023013921

Opened: 3/27/2023

First Licensed: 4/20/1999

Expires: 12/31/2023

Type of License: Time Share Registration

History: None

Complainants stated that in December 2020 they booked a hotel they found online at a discounted rate only to find out upon arrival that the rate required the Complainants to attend a sales presentation. Complainants stated they reluctantly attended, stayed all day for what was supposed to be a 90-minute presentation, and repeatedly told Respondent they did not want to purchase anything but ended up signing a contract. Complainants stated they signed papers they "really had no clue about" and did not realize at first it was a "real estate type purchase". Complainants were especially upset that the purchase made it more difficult later for them to refinance their home, and they feel deceived.

Respondent's legal counsel responded to the complaint on Respondent's behalf. Respondent provided a copy of the contract signed by the Complainants. Respondent noted that the rescission period has long-since passed, and they deny any misrepresentations were made to the Complainant.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

CASES TO BE REPRESENTED

32. 2019063991

Opened: 7/23/2019

First Licensed: 11/14/2007

Expires: 4/6/2025

Type of License: Real Estate Broker

History: None

Complainant is a licensed real estate firm. Respondent is a real estate licensee. This complaint relates to 2019064091.

Complainant alleges that they terminated Respondent as a principal broker after discovering that Respondent was engaged in multiple dishonest, fraudulent, and otherwise improper acts while employed with Complainant. Complainant states that since Respondent's termination, they have continued this behavior and violated several Rules. Complainant states that Respondent was initially hired as a receptionist in 2001 and eventually paid for Complainant to become a real estate licensee and principal broker in 2011. Complainant's primary responsibility as principal broker was to manage Complainant's sales and property management services. Respondent also exercised significant control over Complainant's accounts, books, and records. Respondent was also issued a company credit card and a laptop for business purposes. Complainant alleges that Respondent started to make plans to leave the firm to work for a competitor. Respondent started recruiting Complainant's employees and informed the employees that they intended to take Complainant's clients with them. Complainant alleges that respondent attempted to sabotage the Complainant by deleting their electronic employee files and stealing Complainant's sales files. Complainant discovered this and terminated Respondent and required Respondent to return all of Complainant's property. After Respondent's termination, Complainant started investigating Respondent's activity and discovered that Respondent charged over \$8,000.00 in unauthorized personal expenses to Complainant's credit card. These charges included personal medical expenses (\$1,884.34) and salon/hair expenses (\$6,537.29). Complainant also alleges that Respondent removed several expensive pieces of office equipment from the office including \$3,088.44 worth of computer equipment, a \$1,399.41 Canon Mark II camera, and a \$125.00 Plantronics voyager Bluetooth headset. Complainant attached copies of the unauthorized charges. Complainant further alleges that Respondent retained possession over clickers and master keys for certain properties managed by Complainant. Complainant alleges that Respondent also changed their QuickBooks password to prevent Complainant from accessing its accounting information. Complainant had to hire a third-party accounting firm in order to access its accounting and payroll records following Respondent's termination.

Complainant also alleges that two weeks after Respondent was terminated, Respondent logged into the MLS and cancelled one of Complainant's active MLS listings without Complainant's permission. Complainant further alleges that Respondent's spouse started removing Complainant's lockboxes from active property listings. After removing the lockboxes, Respondent's spouse went to Complainant to obtain Respondent's personal items and informed Complainant that they would not return the lockboxes but would return the company equipment. Complainant states that Respondent should be disciplined pursuant to T.C.A § 62-13-312(14) and (20) as well as Tenn. Comp. R. & Regs. 1260-02-.02(4). Complainant states that Respondent violated this Rule by physically removing Complainant's sales records and refusing to return any of Respondent's proprietary records, files and/or information despite Complainant's repeated requests. Complainant also states that Respondent embezzled funds and stole expensive equipment purchased by Complainant. Complainant states that Respondent's license should be revoked.

Respondent filed a response via their attorney. Respondent states that they did not engage in the alleged conduct involving dishonesty, fraud, theft, or similar conduct. Respondent states that they worked at the Complainant firm for eighteen (18) years, starting as an office manager then the principal broker. Respondent alleges that the work environment became increasingly difficult due to the firm owner's erratic, volatile, and increasingly inappropriate conduct so Respondent started to seek other employment. Respondent states that they did not have an employment agreement nor were they bound by any type of non-compete or non-solicitation agreement. Respondent states that they informed their assistant that they were leaving, and the assistant expressed their desire to leave with Respondent. Respondent states that they did not speak with any other firm employees about leaving with them. Respondent states that the assistant had saved employee file information on their desktop computer rather than the network server, so Respondent moved those electronic files to a folder on the network server from the assistant's desktop computer. Respondent alleges that they did not delete the files. With respect to the closing files, Respondent states that they were responsible for maintaining copies of closing files, so she took file records home, scanned them, and returned all files to Complainant. Respondent states that there was an initial delay in the return of the closing files because Respondent was terminated without notice the day before Respondent left town for vacation. Respondent denies changing the passwords for the QuickBooks software. About the alleged unauthorized charges, Respondent alleges that Complainant agreed to pay their health insurance deductible and co-pays in lieu of paying their full health insurance premiums. Respondent states that Complainant also approved and paid for Respondent's salon visits as Complainant

had previously done so for another female employee. Respondent denies stealing any equipment from Complainant. Respondent further states that the laptop they used did not contain any of Complainant's information as Respondent used a remote login program to remotely access Complainant's computers. Respondent alleges that they deleted all personal information from the laptop and returned the laptop to Complainant. Respondent denies possession of any clickers or master keys belonging to Complainant. Respondent further states that they were informed by the city's real estate association that the lockboxes were issued in Respondent's name as a principal broker and that Respondent was responsible for the active key and lockboxes. Respondent admits that they removed the MLS listing from the MLS and under their name after consulting with the owner and notifying them in writing. Respondent alleges that they are still owed \$26,452.50 from Complainant for closings.

Complainant filed a rebuttal via their attorney. Complainant states that civil and criminal charges are pending against Complainant. Complainant states that they never agreed to pay Respondent's health insurance deductibles and co-pays in lieu of paying their full health insurance premiums. (Complainant attached a copy of the disputed charges). Complainant also states that they never authorized Respondent to charge salon visits and they do not make this a common practice. Complainant states that on one occasion they did authorize Respondent to take another employee to the spa at the firm's expense because the other employee exhibited poor hygiene habits, and this was an effort for to address the issue. Complainant states that since the filing of this complaint, they have discovered that Respondent used Complainant's credit card to pay personal debt collectors. Complainant also provided a copy of the police report filed against Complainant.

Counsel notes that there is a pending civil lawsuit involving the allegations of the complaint. There is also a pending criminal investigation open on the Respondent.

Recommendation: Litigation Monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

New Information: Parties have notified Legal that they entered into a settlement agreement in March 2023 resolving all issues and with each side agreeing not to disparage the other. Terms of the settlement also included a request that the Commission dismiss the complaint, as the matter was resolved without any admission of fault on either side and with Respondent receiving a lump settlement. Additionally, the original Complainant passed away in 2022

and while Complainant's spouse can testify to some of the allegations, the burden of proof necessary at a contested case hearing would be difficult to meet without the original Complainant's testimony.

New Recommendation: Dismiss.

New Commission Decision: The Commission accepted counsel's recommendation.

33. 2019064091

Opened: 7/23/2019

First Licensed: 10/17/2018

Expires: 10/16/2024

Type of License: Affiliate Broker

History: None

Complainant is a licensed real estate firm. Respondent is a real estate licensee. This complaint relates to 2019063991.

Complainant alleges that Respondent assisted their spouse by removing Complainant's lockboxes from active property listings on behalf of Respondent's wife. Complainant alleges that these lockboxes did not belong to Respondent's spouse and were stolen by Respondent. Complainant states that Respondent and their spouse engaged in a joint effort to convert Complainant's electronic lockboxes. The removal of the lockboxes by Respondent was unauthorized.

Respondent states that they were informed by the city's real estate association that the lockboxes were issued in Respondent's spouse's name as the principal broker and that Respondent's spouse was responsible for the active key and lockboxes.

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

New Information: See above.

New Recommendation: Dismiss.

New Commission Decision: The Commission accepted counsel's recommendation.

34. 2022052661
Opened: 1/9/2023
First Licensed: 4/13/2016
Expires: 4/12/2024
Type of License: Affiliate Broker
History: None

Complainant is a licensee. Respondent is a licensee.

Complainant states that they were the listing agent with sellers when Respondent contacted their clients. Clients then requested to terminate the contract, and a mutual release was signed by all parties on 12/21/2022. Complainant canceled the sales listing and confirmed with the photographer that the photos used in the listing had been commissioned by and were owned by Complainant. On 12/26/2022 former clients contacted Complainant and asked for permission to use the photos in their new listing. Complainant declined. On 12/27, Respondent contacted Complainant and requested to purchase the photos from Complainant. Complainant again declined. Complainant then learned that Respondent listed the property on 12/26 using the photos, effectively “stealing” the photos.

Respondent replied that after Complainant declined to sell the photos, they contacted the photographer and “purchased the photos from the photographer that owns the license to the photos.” Respondent provided text messages from the photographer quoting a price of \$150 for the property photos and confirming the purchase by Respondent. Respondent did not address the allegation that they approached Complainant’s clients regarding representation while they were still under an active contract with Complainant. Respondent appears to be in violation of Tenn. Comp. R. & Regs. 1260-02-.12(6)(b) and T.C.A § 62-13-312(b)(10) which states it shall be a violation to: “Inducing any party to a contract, sale or lease to break the contract for the purpose of substitution in lieu of the contract a new contract, where the substitution is malicious or is motivated by the personal gain of the licensee.”

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty.

Decision: The Commission voted to accept Counsel’s recommendation.

New Information: After the receipt of the proposed consent order, Clients contacted TREC legal counsel and denied that Respondent had approached them or encouraged them to terminate their agency agreement with

Complainant. Clients were very complimentary of Complainant’s services but stated that they felt like after a few months on the market without success that “they needed to change directions”. Respondent had previously worked with Clients and so they reached out to Respondent after deciding to end their relationship with Complainant. Based on this additional information, Counsel recommends dismissal of the complaint.

New Recommendation: Dismiss.

New Commission Decision: The Commission accepted counsel’s recommendation.

Aerial Carter

New Complaints:

**35. 2023015091
Opened: 4/26/2023
First Licensed: 3/9/2006
Expires: 3/8/2024
Type of License: Affiliate Broker
History: None**

Complainant is a Tennessee resident and homebuyer. Respondent is an affiliate broker. Respondent was the seller’s agent in this real estate transaction.

Complainant alleges Respondent failed to disclose that the property sold had an HOA and did not disclose a personal relationship with the seller. Respondent stated that they would not have purchased the property if they had known about the HOA. Respondent believes that they were taken advantage of due to not having an agent represent them in this real estate transaction.

Respondent submitted a response. Respondent stated that Complainant was not actually a party in the real estate transaction but a family member. Respondent included communications via text messages and emails that disclosed the HOA for the property sold. The HOA is mentioned in multiple documents that were attached with Buyer’s signature. Additionally, Respondent included a personal interest disclosure and consent form that disclosed the personal relationship they had to the Seller. This document was signed by all parties. Based on the information provided,

Respondent notified the Buyer of the HOA and the personal relationship since all documents were signed by the Buyer.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

36. 2023016701

Opened: 4/26/2023

First Licensed: 1/30/2007

Expires: 1/29/2025

Type of License: Affiliate Broker

History: 2014 Consent Order for improper, fraudulent, or dishonest dealing

Complainant is a resident of another state. Respondent is an affiliate broker. Complainant contacted Respondent to help them purchase property in Tennessee. The complaint alleges Respondent misrepresented the property and acted as a dual agent without disclosing it.

Complainant intended to purchase property and use it for rental purposes. Since Complainant was living in a different state, they relied on Respondent to find a rental property. Complainant attached multiple pictures of the property after the closing happened showing damage to the property that wasn't disclosed and issues with the neighborhood.

Respondent stated that they oversaw the repairs and got Complainant in contact with the Contractor. It was not clear if there was a personal relationship with the Contractor that needed to be disclosed.

Based on the information provided, Counsel finds that Complainant visited the property at least once and was able to ascertain the neighborhood. However, it appears Complainant did not go inside the property and may not have known the extent of damage. The Respondent did send pictures of the major issues that Complainant consented to repairing. Additionally, the contract stated that Complainant had two (2) days prior to closing to review conduct a final walkthrough of the property, which seems like they did not do.

Counsel did find that Respondent acted as a dual agent based on Respondent's admission that they represented the seller and buyer. Respondent claims that Complainant knew that but there was no written document signed by all parties showing this.

Counsel recommends that Respondent be assessed a civil penalty of Five Hundred (\$500) Dollars for failure to provide written confirmation of dual agency relationship.

Recommendation: Five Hundred Dollar (\$500) Civil Penalty.

Commission Decision: The Commission voted to assess a Five Hundred Dollar (\$500.00) civil penalty and require Respondent to complete the CORE education course within one hundred eighty (180) days of execution of the consent order to be completed above and beyond the required continuing education requirements.

37. 2023018471

Opened: 4/26/2023

First Licensed: 5/19/1999

Expires: 1/21/2025

Type of License: Principal Broker

History: 2011 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2015 Final Order for failure to supervise an affiliate broker; 2015 Consent Order for alleged negligence in failing to properly explain the terms of a purchase; 2016 Consent Order for failure to supervise an affiliate

Complainant is Tennessee resident. Respondent is a Principal Broker. Complainant alleges Respondent failed to timely notify them of the filing for the return of Complainant's earnest money. Respondent represented Complainant in a real estate transaction. There was a dispute regarding the earnest money.

Respondent stated that they did not represent Complainant in the civil matter and only conveyed the message that the case had been filed. They deny they caused a delay in the court proceedings.

Based on the information provided, the Commission does not have authority over this matter. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

38. 2023019261
Opened: 4/26/2023
First Licensed: 2/17/2021
Expires: 2/16/2025
Type of License: Affiliate Broker
History: None

Complainant is an affiliate broker. Respondent is also an affiliate broker. Complainant alleges Respondent violated advertising rules by failing to include the required firm information in their social media post.

Complainant included screenshots of the listings that were posted on social media. The complaint specially alleged that Respondent did not comply with the "one-click" rule by failing to include the required firm information in the posts or provide a link with the required information in the post.

Respondent submitted a response stating that they do not believe they violated advertising rules. Respondent included a screenshot of their social media page.

In the screenshots included by the Complainant and Respondent, the required information to comply with the advertising rules.

Counsel finds Complainant's allegations related an advertising violation to be unfounded.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2023013361
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The complainant alleges that Respondent has been mismanaging the property by failing to properly train staff, failing to maintain the cleanliness and safety, and improperly charging residents different amounts. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed but flag the firm.

Recommendation: Dismiss and Flag Firm.

Commission Decision: The Commission accepted counsel’s recommendation.

40. 2023013381
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411,

2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

41. 2023013411
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

42. 2023013451
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2023013481
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

44. 2023013501
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

45. 2023013561
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

46. 2023013581
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that

Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

47. 2023013601
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismiss because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

48. 2023013621
Opened: 5/1/2023
Unlicensed:
History: None

This is a consumer complaint that was referred to the Commission by a separate government entity. Complaint numbers 2023013361, 2023013381, 2023013411, 2023013451, 2023013481, 2023013501, 2023013561, 2023013581, 2023013601, 2023013621 are all related.

Complainant is a Tennessee resident and renter. Respondent is a property management company. The allegations are similar to complaint #2023013361 that Respondent has been mismanaging the property. Respondent did not provide a response to this complaint.

The Commission does not have authority over a “resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.”

Based off the information provided, Counsel recommends that this matter be dismiss because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

49. 2023019501
Opened: 5/8/2023
First Licensed: 3/15/2018
Expires: 3/14/2024
Type of License: Affiliate Broker
History: None

Complainant is Tennessee resident. Complainant was the buyer in multiple real estate transactions. Respondent is an affiliate broker. Respondent was the buyer's agent in the real estate transactions with Complainant.

Complainant alleges Respondent failed to properly advise them of the marketability of property they purchased when Respondent misrepresented the value of the property. Complainant intended to use the property as a rental but did not advise them to get an appraisal or inspection prior to purchase. Complainant relied on Respondent's expertise but after purchase, the property did not receive any renters.

Respondent stated they do not believe they violated any rules or statutes. Respondent stated they advised Complainant to get an appraisal and inspection, but the Complainant refused so they could save money.

There is a duty to disclose "timely and accurate information regarding market conditions that might affect the transaction." However, it only applies when the information is available through public records and when the information is requested by a party. Here, Complainant asked about the value of the home.

Based on the information provided, there is no indication that Respondent had knowledge of market conditions that would lead them to know the property would not receive offers from renters. Additionally, most of the complaint seems to address concerns with the listing agent in this transaction, not the Respondent.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

50. 2023019741
Opened: 5/8/2023
First Licensed: 4/23/2014
Expires: 4/22/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and homeowner. Respondent is an affiliate broker and managed a rental property for Complainant.

Complaint alleged that Respondent failed to properly manage their rental property when they rented the home to a family Complainant did not approve of and sold personal property without their permission.

Respondent submitted a reply and included emails between them and Complainant showing Complainant was aware of who was renting the home and approval of the renters. Respondent also attached various deposits from the managing system, clearly labeling the amount and purpose. Based off the information provided, it does not appear that Respondent failed to communicate with the Complainant.

Complainant wanted to terminate the contract with Respondent, which the Commission does not have jurisdiction over.

Based upon all these facts, Counsel recommends this matter be dismissed because this is a contract dispute.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

51. 2023019771
Opened: 5/8/2023
Unlicensed:
History: None

Complainant is Tennessee resident. Respondent is unlicensed. Complainant alleges Respondent is engaging in unlicensed activity by acting as a real estate agent and/or broker.

Respondent stated that they are not acting as a real estate agent or broker. Respondent states they are real estate investors. They stated they have not represented a buyer or seller, managed a home for a homeowner, or been paid a commission for any type of transaction.

Counsel reviewed the website where Respondent claims to have helped “over 100 families, many of which were military, buy sell, or rent their homes.” Respondent also stated they have purchased homes that were facing foreclosure. Additionally, the website includes multiple links to various social media websites that promote their services.

On Respondent’s main website, there were tabs titled “short term rentals”, “traditional rentals”, and “sell your home.” These tabs included active listings. Counsel contacted Respondent for additional information as to the role they played in the renting and selling of the properties listed.

Respondent stated they own all but two of the homes. The two remaining homes are leased to them, and they sublease those properties. They also stated that they buy homes from sellers and do not act as realtors.

Based upon all these facts, Counsel recommends this matter be dismissed since Respondent has a property interest as an owner and lease in the properties listed, they fall into the exception under §62-13-104.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

52. 2023020311
Opened: 5/8/2023
First Licensed: 1/29/1999
Expires: 6/3/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and homebuyer. Respondent is an affiliate broker.

Respondent was the listing agent for a real estate transaction for a home to be built. Complainant alleges Respondent misrepresented the number of bedrooms in the home.

Complainant stated that they saw an advertisement for a home to be built for a four (4) bedroom, three (3) bathroom house. They were sent floor plans and signed a contract. After the contract was signed, Complainant's agent noticed that the septic system was only approved for a three (3) bedroom home.

Respondent stated that the floor plans were preliminary, but the septic system showed the plans had been a public document and Complainant should have been aware of it. Respondent cites the contract signed by all parties that any issues should be investigated by Buyers' and Sellers' agent if there are any concerns. Respondent acknowledged that the number of bedrooms was incorrect and corrected the listing. They compensated Complainant by giving up a portion of their commission and so did the Builder.

Counsel reached out to Complainant because they mentioned in their response that they had a voice recording between themselves and the Builder that Respondent knew the correct number of bedrooms prior to the listing. Counsel reviewed the recording. The Builder stated that Respondent was aware the home was only approved for a three (3) bedroom not a (4) bedroom home.

Based on the information provided, Counsel finds that Respondent had a duty to do their due diligence to advertise the proper number of bedrooms, in violation of §62-13-403. Counsel recommends this Respondent be assessed a civil penalty of Five Hundred (\$500) dollars.

Recommendation: Five Hundred (\$500) Dollar Civil Penalty.

Commission Decision: The Commission voted to assess a One Thousand Dollar (\$1,000.00) civil penalty.

**53. 2023024171
Opened: 5/30/2023
First Licensed: 1/29/1999**

Expires: 6/3/2024
Type of License: Affiliate Broker
History: None

Complainant is a licensed Affiliate Broker. Respondent is an Affiliate Broker. This complaint is related to complaint number 2023020311. The complainant alleged the same facts as the related case.

Since the facts do not deviate from the related case and is not a separate incident, Counsel does not believe additional penalties should be assessed. Counsel recommends that this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

54. 2023020871
Opened: 5/8/2023
First Licensed: 3/20/2000
Expires: 3/19/2024
Type of License: Real Estate Firm
History: None

Complainant is a Tennessee resident. Respondent is a firm.

Complainant stated that Respondent's business entity was revoked with the Tennessee Department of Labor and Workforce. At the time of the complaint, the Respondent's business entity was listed as inactive.

Respondent submitted a response and stated that they were made aware of the inactive status and corrected the situation with the Department of Labor and Workforce by paying the correct rate.

There was no allegation that Respondent was operating their business while in inactive status with the Secretary of State. Counsel reviewed CORE to determine if the firm had an "active" status with the Commission. It was.

Based on the information provided, there is no evidence that Respondent is in violation by operating their firm while unlicensed. Furthermore, Respondent's

matter was handled by a different department that the Commission doesn't have jurisdiction over.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

55. 2023020881
Opened: 5/8/2023
Unlicensed:
History: None

Complainant is Tennessee resident. Respondent is a real estate firm. Complainant alleges Respondent is engaging in unlicensed activity by is advertising itself as a property management company without the proper license.

Respondent stated they are a team associated with a licensed real estate firm. Respondent attached screenshots of filling information where their name is listed.

Based upon all these facts provided, Counsel recommends this matter be dismissed and an administrative complaint be opened against the firm and principal broker for potential advertising violations.

Recommendation: Dismiss and Open administrative complaint against proper party.

Commission Decision: The Commission accepted counsel's recommendation.

56. 2023021661
Opened: 5/15/2023
Unlicensed:
History: None

Complainant is a Real Estate Broker. Respondent is unlicensed and a real estate investor. This complaint is related to complaint #2023022371 and complaint #2023022401. Complainant alleges Respondent engaged in unlicensed activity when they attempted to represent a Buyer in a real estate transaction and engaged in misleading advertising that would lead people to believe they are a real estate agent.

Complainant stated that Respondent is a wholesaler and in the real estate transaction they were attempting to provide additional investors/ buyers for the property being sold. Complainant and Respondent signed a Nonexclusive Buyer Agreement and Referral Agreement. In both documents, Respondent was listed as a Buyer along with another individual (“Second Buyer”). Complaint stated that Respondent claimed to represent the Second Buyer and required all communications regarding the potential sale go through Respondent. When Second Buyer refused to sign the Nonexclusive Buyer Agreement, Complainant did not go forward with the real estate transaction.

Respondent stated they did not hold themselves out as a real estate agent during the real estate transaction nor did they advertise that they are a licensed real estate agent on their website. Respondent states that they were a party in the real estate transaction as a Buyer. They also maintain that they have not engaged in mislead advertising.

In the Response provided, Respondent stated they were specifically asked to represent Second Buyer with the communications going back and forth in order to gather all information in a summarized investor deal fashion other than the informally typed up deal information previously provided after marketing the supposed deal online. Counsel finds that Respondent attempted to act as agent when they tried to act as an intermediary between Complainant and Second Buyer.

For the misleading advertising, Complainant attached Respondent’s business cards and screenshots of their website. Respondent stated that they clearly state they are an investor and not a real estate professional. Respondent included a copy of their business license.

Counsel reviewed the website and finds that the Respondent clearly identifies themselves as a real estate investor. However, the business cards could be considered misleading. There is no mention of Respondent being an investor, the cards just have the company name and says, “real estate.”

Based upon all these facts, Counsel recommends the Respondent be assessed a civil penalty of one thousand (\$1,000) civil penalty for engaging in unlicensed activity in violation of §62-13-301.

Recommendation: One Thousand Dollar Civil Penalty (\$1,000.00).

Commission Decision: The Commission accepted counsel's recommendation.

57. 2023022371

Opened: 5/15/2023

First Licensed: 6/13/2016

Expires: 3/17/2024

Type of License: Real Estate Broker

History: None

Complainant is a real estate investor. Respondent is a Real Estate Broker. This complaint is related to complaint # 2023021661 and complaint #2023022401. Complainant alleges Respondent engaged in fraudulent practices when they acted as the listing agent although they did not have the right to list the property.

Complainant and Respondent were connected after a Florida real estate agent ("Referring Agent") referred Respondent to Complainant for the sale of a commercial property.

Respondent stated they worked with Seller previously and were looking for potential buyers for a property being sold "for sale by owner." Respondent stated their only role was to find potential buyers, not represent any party in the real estate transaction. Respondent stated that they disclosed their role to Referring Agent and did not have the property listed with their firm.

The complaint alleged that Respondent asked for buyers via social media. Respondent said that they asked if "anyone would be interested in purchasing the property" but did not post any information about the listing. Neither party included an attachment of the post.

Based on the information provided, Complainant and Respondent signed a Nonexclusive Buyer Agreement and Referral Agreement. In both documents, Complainant was listed as a Buyer along with another individual ("Second Buyer").

When the Second Buyer failed to sign the Nonexclusive Buyer Agreement, Respondent did not go forward in the real estate transaction. There were no details were disclosed on the commercial property, however, Complainant wanted additional information as they claimed they were a party to the transaction. Respondent required signatures from both potential buyers before proceeding further. When it wasn't received, the communication was terminated. Respondent included communication between them and the Seller where it was disclosed that the nature of their relationship was for Respondent to find a buyer for Seller.

Counsel finds Complainant's allegations related to Respondent fraudulently advertising a listing that was not theirs to be unfounded because they were acting as a facilitator, permitted under §62-13-401.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

58. 2023022401
Opened: 5/22/2023
First Licensed: 4/4/1986
Expires: 6/13/2025
Type of License: Principal Broker
History: None

Complainant is a real estate investor. Respondent is a Principal Broker. This complaint is related to complaint # 2023021661 and complaint #2023022371. Complainant allegations are identical to the claims in complaint #2023022371.

Respondent was the Principal Broker for the Real Estate Broker. Respondent stated they worked with Seller previously and were looking for potential buyers for a property being sold "for sale by owner." Respondent stated their only role was to find potential buyers, not represent any party in the real estate transaction. Respondent stated that they disclosed their role to Referring Agent and did not have the property listed with their firm.

Complainant main concerns were with the Real Estate Broker instead of this Respondent. Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

59. 2023021711
Opened: 5/22/2023
First Licensed: 5/28/2019
Expires: 5/27/2025
Type of License: Affiliate Broker
History: None

Complainant is anonymous. Respondent is an affiliate broker. Complainant is a local property manager who took over management for one of Respondent's clients. Complainant alleges Respondent has mismanaged the client's assets, failed to pay rental income to client, and owes client back rent. Client requested invoices that Respondent didn't provide. Complaint also states that Respondent didn't list a firm they're associated with, violating advertising rules.

Respondent provided a response stating they do believe the mismanaged the property. For the vacation rentals, Respondent stated that it was unrelated to their current real estate firm as they are operating with its own designated agent, they are just the owner.

The Commission does not have authority over a "resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property."

Based off the information provided, Counsel recommends that this matter be dismiss because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

60. 2023021771
Opened: 5/22/2023
First Licensed: 5/28/2019
Expires: 5/27/2005
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and property owner. Respondent is an affiliate broker.

Complaint is related to complaint #2023021711.

Complainant was the Respondent's client and is the owner of properties in Tennessee. Respondent was the property manager. Complainant's allegations are the same as the related case. Complainant alleges Respondent has mismanaged their assets, failed to pay rental income to client, and owes client back rent. Client requested invoices that Respondent didn't provide. Respondent provided a response in complaint #2023021711 that addressed both complaints.

The Commission does not have authority over a "resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property."

Based off the information provided, Counsel recommends that this matter be dismissed because this falls into one of the enumerated exemptions under §62-13-104. This matter should be handled in civil court.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

61. 2023022511
Opened: 5/15/2023
First Licensed: 10/4/2018
Expires: 10/3/2024

Type of License: Affiliate Broker
History: None

Complainant is an out of state resident. Respondent is an affiliate broker. Complainant alleges they booked a rental property via a third-party booking website. The Complainant then received notification that their reservation with the rental property was cancelled. Complainant stated that Respondent misrepresented a rental listing that was later listed for sale.

Respondent stated they were the listing agent but has no control over the third-party rental site. Their only involvement was informing the Seller that they needed to cancel any rentals booked for the property prior to listing the property for sale.

Counsel finds Complainant's allegations related Respondent's misrepresentations to be unfounded. Respondent did not manage the rental property nor misrepresent the property to Complainant. This matter is better suited as a civil case as a contract dispute, although it is likely it would be unsuccessful.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

62. 2023023121
Opened: 5/15/2023
First Licensed: 3/15/2001
Expires: 6/30/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant purchased a land and Respondent was the seller's agent for their neighbor. Complainant alleges Respondent listed the wrong property for sale and failed to do their due diligence.

Complainant stated that they attempted to inform Respondent via text messages and through their agent that the property listed for sale was theirs and the listing should reflect the Seller's address.

Respondent attached the listing along with a survey for the property listed. Respondent stated they did not receive a text message from Complainant because they had the wrong number. Respondent admitted they received a call from the Respondent's agent letting them know about the incorrect address. Respondent removed the listing until the property lines could be confirmed. Respondent spoke with Seller and local law enforcement, and it was confirmed the property listed was owned by Seller.

Counsel reviewed the property assessor's website to determine ownership. The assessor's office had the same address id for both properties. However, the parcel ids were different by a tenth of a decimal. Counsel found that Respondent listed the correct information that identified Seller's property.

Based upon all these facts, Counsel recommends this matter be dismissed because there was no intentional misrepresentation made.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

63. 2023016121
Opened: 5/15/2023
First Licensed: 11/18/2021
Expires: 11/17/2023
Type of License: Real Estate Firm
History: None

This is a consumer complaint that was submitted on behalf of the Complainant by their family member ("Representative"). Representative stated that Respondent manipulated Complainant to sign a contract with them. Specifically, that the company exploited Complainant's age, memory, lack of access to resources, and comprehension. Respondent is a Real Estate Firm that enters agreements with homeowners to have the right to be their exclusive listing agent if they decide to sell their property.

Respondent provided a response stating they do not believe they pressured Complainant to sign a contract with them and explained their business model.

Counsel contacted Representative to get additional documentation of Respondent's coercive actions but did not receive a reply prior to this commission meeting. After reviewing the response, Counsel has concerns about the business model. However, nothing was provided to show predatory practices in this matter. It should be noted that Respondent has firms in various states that have ongoing complaints about the firm's business practices.

Based on the information provided, Counsel recommends this matter be dismissed but flag the firm.

Recommendation: Dismiss and Flag Firm.

Commission Decision: The Commission voted to accept counsel's recommendation.

64. 2023028951

Opened: 7/17/2023

First Licensed: 7/14/2020

Expires: 7/13/2024 (Errors and Omissions Suspension as of 2/25/2023)

Type of License: Affiliate Broker

History: None

Complainant is an officer at a Tennessee title company. Respondent is an Affiliate Broker. The complaint alleges that Respondent stole a \$6,200.00 commission by fraudulently changing the payment instructions with the proper title company account to their personal account.

Counsel contacted Complainant to get additional documentation of the fraudulent transfer. Counsel received a response that contained a few emails that suggested Respondent had the money but nothing definitive. Complaint stated that they are pursuing criminal charges in this matter.

Respondent did not submit a response to this complaint.

Based upon all these facts, Counsel recommends the Respondent be assessed a One-Thousand Dollar (\$1,000) civil penalty for failing to submit a response and discuss.

Recommendation: Discuss.

Commission Decision: The Commission voted to assess a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-313(a)(2).

Chairman Diaz adjourned the meeting at 12:35pm CDT.